MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2015/2016

UEQ3622 – EQUITY & TRUSTS II

(All Sections / Groups)

03 March 2016
Reading Time : 2.30 p.m. – 2.45 p.m.
(15 Minutes)
Answering Time: 2.45 p.m. – 5.45 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of:
   i. Trustees Act 1949 ; and
   ii. Specific Relief Act 1950

5. Please write all your answers in the Answer Booklet provided.

Question 1

FABULOUS Development Sdn Bhd. is a developer of a condominium project in Klebang, Melaka. In 2011, they launched a new project named "Indah Rupa Condominium".

Mr. Beng Kaa , who was recently married to Ms. Oo Bii, purchased one of the unit as a wedding present to his wife. He agreed to purchase the unit after viewing the miniature model and printed brochures of the project displayed at the project's launch.

In 2016, Mr. Beng Kaa through his lawyer, Mr. Lurus, sent a written notice to rescind the agreement for misrepresentation. He claims that, at the project launch the FABULOUS Development Sdn Bhd's servant or agent represented to him that he would be able 'to swim directly upon exiting' the property. Mr. Beng Kaa also claims that he was shown a miniature model and printed brochure of the project that showed 'a sandy beach front, umbrellas, relaxing easy chairs and sailboats close to the beach'. He then discovered that the developer's representation were false.

(a) FABULOUS Development Sdn Bhd is seeking your advice relating to the above matter. As a prominent lawyer in Melaka, advise your client accordingly.

(15 marks)

(b) Would you advise FABULOUS Development to rectify the agreement?

(10 marks)

(Total : 25 marks)

Continued .....

Question 2

'Once a constructive trust has been established then this gives the claimant a right to trace the property. Therefore if property is found in the possession of a recipient with the requisite knowledge to create recipient liability, they become a trustee and the claimant can decide to make a proprietary claim, not a personal one. This is the point at which the personal claim and the proprietary claim overlap.'

Iain McDonald & Anne Street, Equity and Trusts (2nd ed. 2011) Oxford University Press, 183

Discuss the above statement with the reference to the relevant authorities.

(Total: 25 marks)

Question 3

Rara suffered heart cancer, stage four. As the only child, she inherited large amount of estates from her late father. She stayed with her mother, Mdm. Lana.

In 2014 August, Rara created a trust expressly stated in her will. Pinky has been appointed as her trustee while Mdm. Lana as her executor. In September 2015, Rara lost her battle.

In Rara's trust it was mentioned that all duties and powers of trustee must be as per stated in the written law. But, before the fulfillment of the conditions of the trust, Pinky, has been adjudged bankrupt.

(a) Being the only beneficiary, Mdm. Lana, seeks your advice regarding the above matter. (10 marks)

(b) Would your answer be different if instead of been adjudged bankrupt; Pinky died due to an accident. (8 marks)

(c) With reference to situation (b), would your answer be different if Rara died intestate. (7 marks)

(Total: 25 marks)

Continued .....

Question 4

Cantik Rupa Co. owned a patent covering an instant shawl named, Beauty shawl. They introduced the instant shawl on November 2015 and patented it immediately. It was a new trend and the company received a lot of orders.

WePunPreety Co. operates in Melaka Tengah and is about to lunch on the market a new patent of instant shawl. Cantik Rupa Co. claimed that WePunPreety Co. is infringed their patent.

Cantik Rupa Co. then proceed with a legal action and at the same time the company wants to prevent WePunPreety Co. from manufacturing the instant shawl until the Court has heard the merits of the case fully.

Advise Cantik Rupa Co.

(Total: 25 marks)

Question 5

Briefly explain the followings:

(a) Position of Mareva injunction in Malaysia;

(10 marks)

(b) Liability of trustees inter se;

(5 marks)

(c) Powers supplementary to powers of investment.

(10 marks)

(Total: 25 marks)

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